

June 17, 2021

Sent Via EPA Dropbox (electronic submission)

CONTAINS CONFIDENTIAL BUSINESS INFORMATION

Jodi Harper
U.S. EPA Region 7
11201 Renner Blvd.
Lenexa, KS 66219

Re: BCP Ingredients, Inc. -- Confidentiality Substantiation for documents
submitted responsive to June 7-9 RMP Inspection Request

Ms. Harper:

BCP Ingredients, Inc. ("BCP" or the "Company") is providing additional information to the U.S. Environmental Protection Agency ("EPA") in connection with the recent EPA inspection under the Risk Management Plan program. We appreciate EPA's handling the information as confidential at all times. This letter provides substantiation for the claim that the information is CBI and is being timely provided at the time BCP is disclosing the information to EPA.

Specifically, all Company compliance audit or corrective action documentation, calculations to support hazard assessments, information regarding internal inspection, testing, and maintenance, chemical inventory, diagrams, checklists, operating procedures, Process Hazard Assessments ("PHAs"), and Piping and Instrumentation Diagrams ("P&ID") information is CBI. BCP requests that all documents and information be wholly treated as confidential in perpetuity because it contains information regarding internal processes, equipment, and business methods, all of which provides the Company with a competitive advantage and which the Company normally protects as secret. Disclosure could destroy this competitive advantage were the information available to BCP's competitors or otherwise in the public domain. BCP has made a similar confidentiality claim when providing these and similar documents to other agencies.

The CBI submitted in response to the request contains information regarding the quantity of chemicals and types of equipment used in the facility and diagrams with details of internal equipment. Disclosure of the information would not only provide substantive information about BCP's internal processes and calculations, but also would allow competitors to understand BCP's facility and processes in a way they would not otherwise be able to, including understanding BCP's development and implementation of its processes to comport with regulations and industry standards.

The documents, in their entirety, meet the requirements of 40 CFR 2.204(e) to be treated as confidential business information, as described below:

1. **Length of confidential treatment and justification:** BCP requests the information be treated as confidential permanently. The documents contain specific information that, if made public, would allow competitors or others to glean information about the facility, its equipment, and its processes, and would allow duplication of processes and/or products prepared by and unique to BCP. While changes to the facility and/or its processes will occur over time, these changes are piecemeal. Obtaining detailed information related to specific components of BCP's process is a competitive disadvantage to BCP now and in the future.
2. **Measures taken to protect confidential information:** BCP takes measures to protect confidential information. For instance, during permitting, reporting, or information request processes, BCP claims confidentiality. BCP's document management system and facility are also both protective of documents and facility and process information. BCP also utilizes non-disclosure and confidentiality agreements. BCP requires its employees to execute non-disclosure agreements and limits internal disclosure of this type of information to only those with a "need to know". BCP does not provide this type of information in publicly available formats.
3. **Information not publicly available:** The information provided is not publicly available and is not the kind that the Company would release to the public. BCP maintains documents and information at its facility and on private servers, which are not publicly accessible. BCP is a gated facility to prevent entry to the facility by the public. While this is primarily for safety reasons, it also keeps information regarding the equipment and processes at the facility inaccessible to the public, and, as noted above, only to employees who have a "need to know". Further, BCP maintains policies and procedures to prevent the disclosure of this this type of information.
4. **No determination as to confidentiality of information:** There has not previously been a determination by any governmental body as to the confidentiality of information submitted.
5. **Release of information is likely to cause substantial harm to BCP's business:** As described above, release of the information submitted would cause harm to BCP as it could allow competitors to understand and/or replicate processes at the facility, to ascertain quantities and types of materials going through the production process, and to utilize BCP's practices and processes or duplicate its proprietary chemicals and products.

6. Voluntary submission: This information is being submitted voluntarily pursuant to EPA's inspection request. BCP has not received notice of any request from EPA pursuant to any statutory authority requiring BCP to submit the information
7. Information is eligible for confidential treatment: The documents do not contain emission data, information collected under Clean Air Act § 211(b)(2)(A), effluent data, a standard or limitation, or information regarding contaminants in drinking water. Rather, it is the type of commercial information intended to be protected as CBI.

For all these reasons, the responsive documents are confidential and not subject to disclosure under the Freedom of Information Act, since said documents contain confidential commercial information. 5 U.S.C. § 552 (b)(4).

We appreciate EPA's time and consideration of this confidentiality substantiation. If EPA has follow-up questions or needs more information to substantiate the confidentiality claim, please let me know. BCP also requests notification from EPA if the information described herein is requested. Thank you.

Sincerely,



Greg Henthorn
Plant Manager